COURT NO. 2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 4331 OF 2001 (S/S)

1.Vijay Singh S/o Shri Ganga Singh R/o Gram Sakh, Loli P.O. Pand, Patti Talai, District Pauri Garhwal at present residing at Helen Estate, Dal Garhi, Mussorree
2.Hukum Singh Late Shri Jawahar Singh R/o Village Dhulketu Patti, Bagar Seu, P.O. Kandoi, Distt. Pauri Garhwal at present residing at Helen Estate, Dal Garhi, Mussorie …… Petitioners

Versus

1. Presiding Officer, Labour Court, Dehradun
2. Pratap Singh, Presiding Officer, Labour Court, Dehradun
3. State of Uttaranchal through Labour Secretary
4. Principal Guru Nanak V Sentinary School, Mussorie

……. Respondents

Shri H.B. Gairola, leaned counsel for the petitioners.
Shri Nand Prasad, learned standing counsel for Respondents.

Dated: 01.09.2005

Hon'ble P.C. Verma, J.

By means of this writ petition, the petitioner has prayed for writ of Certiorari quashing the impugned order dated 17.11.2000 and 08.08.2000 passed by Presiding Officer, Labour Court, Dehradun which is contained in Annexure Nos.2 and 3 to this writ petition rejecting the applications of the petitioners to lead the evidence.

The brief facts of the case giving rise to this writ petition are that the petitioners have espoused their dispute under the U.P. Industrial Disputes Act (hereinafter will be referred to as the Act) under Section 2 'A' against he illegal termination of their services by order dated 24.10.1998 in which it was mentioned that their services were not required after 30.11.19998. Thereafter, the petitioners raised this

issue with the Management as Well as to the D.M. also and thereafter they have approached to the machinery provided under the Act and the Govt. has sent a reference order to Respondents No. 1 for adjudication and after having receivedthe reference orders, the respondent No. 1 registered the same as adjudication No. 382/99 and 381/99 respectively. On 17.1.2000, the Respondent No.1 recorded his order that employers are admitting the employment of the workmen since 1991 and 1994 respectively and the question involved in this case is related to retrenchment w.e.f. December, 1998, hence there is no requirement for these old documents and rejected the applications of the applicant-workman fixedthe case for evidence. The petitioners thereafter though their representatives made an application on 08.08.2001, but the Respondent No. 2 passed an order that Respondent no. 4 did not make any endorsement for comment on this application and rejected the application by passing the following order:-

"Summoning of these documents was not considered necessary earlier vide order dated 17.11.2000 on the order sheet. Hence, when the state of evidence is over and case is fixed for arguments,the request again cannot be granted." Feeling aggrieved, this writ petition has been filed.

I have learned counsel for the parties and perused the entire evidence on record.

The leaned Labour Court ought not to have rejected the applications of the petitioners once it was to lead evidence to prove their employment, which goes to the very route of the matter and was necessary for adjudication of the right of the petitioners.

Therefore, the impugned orders dated 17.11.2000 and 08.08.2001 are herby quashed. The

case is remanded back to the leaned Labour Court, Dehradun. The Labour is directed to allow the petitioners to lead their evidence and then decide the case after taking the same into consideration.

With the aforesaid observation, the petition is disposed of accordingly.

(P.C. Verma, J.)

Rajeev Dang